THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.6224 of 2007

Date: 29.03.2007

Between:

M/s. Dhanalaxmi Agro Industries.

....Petitioner

And

Transmission Corporation of A.P., Ltd., (APTRANSCO) Vidhyuth Sowdha, Kharatabad, Hyderabad rep., by its Chief Managing Director and another.

....Respondents

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O R D E R:

Petitioner is connected with power supply, through Service Connection No.676, under Category-III. On the basis of an inspection caused on 06.10.2006, the second respondent issued a notice of provisional assessment. The loss of revenue to the Company was provisionally assessed at Rs.3,71,174/-. The petitioner was required to submit explanation and was also given an option, to pay half of the said amount, in case, it wants continued power supply. The petitioner had accordingly paid half of the amount on 26.10.2006. The proceedings for passing the order of final assessment are pending. The grievance of the petitioner is that the second respondent is demanding the balance of the amount covered by the notice of provisional assessment, even while the proceedings for final assessment are pending.

Heard the learned counsel for the petitioner and the

learned Standing Counsel for the respondents.

Basically, the liability of a consumer of electric power, in the context of any acts of pilferage or malpractices being noticed, needs to be determined, in accordance with Section 126 of the Electricity Act, 2003, in an order of final assessment. The amount indicated in the notice of provisional assessment cannot be treated as final. To ensure continued power supply, the petitioner had already paid half of the amount indicted in the notice. If the petitioner is required to pay the balance amount, the very proceedings, for passing the order of final assessment, become nugatory.

For the foregoing reasons, the Writ Petition is allowed and the respondents are directed not to insist on payment of balance amount indicated in the notice of provisional assessment. The actual liability of the petitioner shall depend upon the outcome of the final assessment proceedings. If the petitioner has not submitted its explanation so far, it shall be entitled to file it, within a period of two (2) weeks from today. There shall be no order as to costs.

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29.03.2007

Note: Issue operative portion of the order
by wire at party's costs.

(B/o)
JSU